

BILL NO. S-76-12-24

SPECIAL ORDINANCE NO. S-237-76

AN ORDINANCE approving a contract with Development Concepts Unlimited Corporation for construction of a sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the contract dated December 6, 1976, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Development Concepts Unlimited Corporation, for:

MAIN SEWER

Located in Northway Gardens Addition, an addition to the City of Fort Wayne, Indiana, and being in the North 40 rods of the North Half of the Southwest Quarter of Section 35, Township 32 North, Range 12 East, except therefrom the West 190 feet of the South 140 feet, in Perry Township, Allen County, Indiana.

The sewer line starts at an existing Manhole #33 of the ST. JOE INTERCEPTOR SEWERS project S-J-#6, and being on Drawing # SY-10944 of the Fort Wayne City Utilities Office. Said Manhole #33 is 3.5 feet South of the North line of Northway Drive, and 518 feet East of existing Manhole #33 in Northway Gardens Addition. From the starting point, the sewer line goes East 518 feet and parallel to Northway Drive and terminates at that point.

The sewer line will accommodate Lots 78, 77, 76, 75, 74, 73, 72, 71, 70, 69, and 68 on the North and South sides of Northway Drive, Northway Gardens Addition, an addition to the City of Fort Wayne, Indiana,

of which the developer shall pay the entire cost and expense of the construction of said sewer, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

APPROVED AS TO FORM  
AND LEGALITY.

  
\_\_\_\_\_  
CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the day of \_\_\_\_\_, 1976, at \_\_\_\_\_ o'clock P.M., E.S.T.

DATE: 12-14-76

Charles W. Westerman  
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Hinga, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>8</u>			<u>1</u>	
BURNS	<u>✓</u>				
HINGA	<u>✓</u>				
HUNTER	<u>✓</u>				
MOSES	<u>✓</u>				
NUCKOLS	<u>✓</u>				
SCHMIDT, D.				<u>✓</u>	
SCHIMDT, V.	<u>✓</u>				
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 12-28-76

Charles W. Westerman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (~~ANNEXATION~~) (SPECIAL) (APPROPRIATION)

ORDINANCE (RESOLUTION) No. S-237-76 on the 28th day of Dec., 1976.  
ATTEST: (SEAL)

Charles W. Westerman  
CITY CLERK

James Stier  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of Dec., 1976, at the hour of 11:00 o'clock 4 M., E.S.T.

Charles W. Westerman  
CITY CLERK

Approved and signed by me this 3rd day of January, 1976, at the hour of 11:30 o'clock \_\_\_\_\_ M., E.S.T.

Robert E. Armstrong  
MAYOR

Bill No. S-76-12-34

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance  
approving a contract with Development Concepts Unlimited Corporation  
for construction of a sanitary sewer

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance OK PASS.

Paul M. Burns - Chairman

John Nuckols - Vice-Chairman

William T. Hinga

Fredrick R. Hunter

Samuel J. Talarico

CONCURRED IN

12-28-76  
DATE

CHARLES W. WESTERMAN, CITY CLERK

64-50-9 H.I.  
1-16/76

AGREEMENT FOR SEWER EXTENSION

THIS AGREEMENT, made in triplicate this 6<sup>th</sup> day of December, 1976, by and between Development Concepts Unlimited Corporation hereinafter referred to as "DEVELOPER", and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, hereinafter referred to as "CITY",

WITNESSETH:

WHEREAS, the Developer desires to construct sanitary sewer described as follows:

MAIN SEWER

Located in Northway Gardens Addition, an addition to the City of Fort Wayne, Indiana, and being in the North 40 rods of the North Half of the Southwest Quarter of Section 35, Township 32 North, Range 12 East, except therefrom the West 190 feet of the South 140 feet, in Perry Township, Allen County, Indiana.

The sewer line starts at an existing Manhole # 33 of the ST. JOE INTERCEPTOR SEWERS project S-J-#6, and being on Drawing # SY-10944 of the Fort Wayne City Utilities Office. Said Manhole # 33 is 3.5 feet South of the North line of Northway Drive, and 518 feet East of existing Manhole # 33 in Northway Gardens Addition. From the starting point, the sewer line goes East 518 feet and parallel to Northway Drive and terminates at that point.

The sewer line will accommodate Lots 78, 77, 76, 75, 74, 73, 72, 71, 70, 69, and 68 on the North and South sides of Northway Drive, Northway Gardens Addition, an addition to the City of Fort Wayne, Indiana.

Said sanitary sewer shall be 8 inches in diameter, in accordance with plans, specifications, and profiles heretofore submitted to the City and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department of the City and known as DEVELOPMENT CONCEPTS UNLIMITED CORPORATION SANITARY SEWER LATERAL ONE, which plans, specifications, and profiles are by reference incorporated herein and made a part hereof, which sewer will serve only land in which the Developer has an interest.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER. The DEVELOPER shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the CITY, under private contract with CITY approval. All work and materials shall be inspected by the CITY and conform with all CITY standards and specifications. Upon completion, said sewer shall become the property of CITY and all further maintenance thereafter shall be borne by the CITY.

2. COST OF CONSTRUCTION. The DEVELOPER agrees to pay the entire cost and expense of construction of said sewer, in cash, and to hold the CITY harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER. Said sewer, when accepted by the CITY, will initially serve the following described real estate of the DEVELOPER:

Lots 78, 77, 76, 75, 74, 73, 72, 71, 70, 69, and 68 located in Northway Gardens Addition, an addition to the City of Fort Wayne, Indiana, and being in the North 40 rods of the North Half of the Southwest Quarter of Section 35, Township 32 North, Range 12 East, except therefrom the West 190 feet of the South 140 feet, in Perry Township, Allen County, Indiana.

As the DEVELOPER will pay for the entire cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer, or the use thereof, by the present or future owners of said aforescribed real estate, except as to such standard tap-in and inspection fees as are customarily charged by the CITY for connections to City sewer main. Also, an area connection charge of \$475.00 per acre must be paid to CITY at the time of connection by any owner or owners of the area sought to be served by the herein described sanitary sewer. This area connection charge is in addition to the local charge as set forth above, and represents the oversizing cost expended by CITY for the ST. JOE SANITARY INTERCEPTOR SEWERS.

4. FOND. This contract is subject to DEVELOPER or DEVELOPER'S contractor furnishing a satisfactory Performance and Guaranty Fund for the value of the sewer, said bond to serve as a guarantee of said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the CITY.

5. LIMITATION ON USE. Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water run-off caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

6. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION. The DEVELOPER, for and in consideration of City's entering into this Sewer Extension Agreement with DEVELOPER, releases DEVELOPER'S right, and the right of DEVELOPER'S successors in title, to remonstrate against pending or future annexations to the City of the area served by the sewers and facilities described in Article 3 hereof, and any person tapping into or connecting to the sewers and facilities contracted for herein shall be deemed to hereby waive their rights to remonstrate against the annexation of the area served by the sewers and facilities described in Article 3 hereof.

The DEVELOPER further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days after its adoption and approval by the Common Council of City as hereinafter provided.

7. GOVERNING STATUTE. It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17, and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (Purs Indiana Statutes Anno., 1968 Supple., Sections 48-3963, 3964, and 3965), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

8. COUNCILMANIC APPROVAL. It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

DEVELOPER:

DEVELOPMENT CONCEPTS UNLIMITED CORPORATION

By John Eastes, as its Vice-President  
John Eastes, as its Vice-President

By Jerrie Hall, as its Secretary  
Jerrie Hall, as its Secretary

CITY:

CITY OF FORT WAYNE, INDIANA

By Robert E. Armstrong, Mayor  
Robert E. Armstrong, Mayor

BOARD OF PUBLIC WORKS

By Henry P. Vehrenberg, Chairman  
Henry P. Vehrenberg, Chairman

By Ethel H. LaMar, Member  
Ethel H. LaMar, Member

By Max G. Scott, Member  
Max G. Scott, Member

STATE OF INDIANA }  
COUNTY OF ALIEN } SS:

ATTEST: Ursula Miller  
Ursula Miller, Clerk

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared John Eastes and Jerrie Hall of DEVELOPMENT CONCEPTS UNLIMITED CORPORATION, by who acknowledged the execution of the foregoing agreement for sewer extension as and for its voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 29 day of November, 1976.

My Commission Expires June 1, 1980 Alice E. Hawers  
Notary Public

STATE OF INDIANA }  
COUNTY OF ALLEN } SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert E. Armstrong, Henry P. Wehrenberg, Ethel H. LaMar, Max G. Scott and Ursula Miller, known to me to be the Mayor, the members of the Board of Works, and the Clerk of said Board of the City of Fort Wayne, Indiana, respectively, and the voluntary act and deed of said CITY.

WITNESS my hand and notarial seal this 6<sup>th</sup> day of December, 1976.

My Commission Expires

3/6/80

Anne J. Fox  
ANNE J. FOX

Notary Public



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TITLE OF ORDINANCE SPECIAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE Sewer Extension Agreement between Development Concepts

Unlimited Corporation and the City of Fort Wayne provides for construction  
of a sanitary sewer to serve Lots 68 through 78 in Northway Gardens Addition.

Entire construction, engineering and inspection shall be paid by the developer.

An area connection charge of \$475.00 per acre shall be paid to the City at  
time of connection by any owners sought to be served by said sewer as well as  
regular connection charges. This is reimbursement to the City for oversizing  
costs on the St. Joe Interceptor Sanitary Sewer.

EFFECT OF PASSAGE Service to properties outside City Limits and revenue to the  
Utility

EFFECT OF NON-PASSAGE Failure to provide sanitary sewer service where possible  
at no cost to the City

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) No cost to City

ASSIGNED TO COMMITTEE City Utilities Dept